

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

ORIGINAL
FILE

In the Matter of)
)
Modification of Section 90.267(b))
and Other Provisions of the)
FCC's Regulations Affecting the)
Ownership of Specialized Mobile)
Radio (SMR) Systems Within)
40 Miles of Each Other)

RM-8030

To: The Commission

**STATEMENT IN OPPOSITION
OF
NORTHERN STATES POWER COMPANY**

Northern States Power Company, by its attorneys and pursuant to Section 1.405(a) of the Federal Communications Commission's (Commission's) rules, hereby respectfully submits this Statement in Opposition to the Petition for Rule Making filed by A & B Electronics, Inc. (A & B) on May 26, 1992.^{1/}

I. PRELIMINARY STATEMENT

1. NSP is the largest electric utility in the state of Minnesota. To ensure its essential service is provided safely and efficiently to its customers, NSP maintains a

^{1/} Public Notice, Report No. 1899, Petitions for Rulemaking Filed, released July 13, 1992.

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large, complex internal telecommunications network. While each element in the network is critical, NSP's land mobile network is perhaps the most important in enabling NSP to meet its significant public safety and public service obligations. Land mobile communications are indispensable to the maintenance, repair and emergency preparedness activities associated with NSP's distribution system, its generating plants, and its major transmission lines.

2. NSP currently operates an 800 MHz trunked system at its Sherburne Nuclear Generating Plant. NSP also is in the process of expanding its 800 MHz system to provide land mobile coverage throughout the greater Minneapolis/St. Paul metropolitan area; i.e., the heart of the utility's service territory. Once completed, NSP's 800 MHz system will be the core of NSP's telecommunications infrastructure in the area through the end of the decade and into the next century. As the licensee of these significant 800 MHz facilities, NSP has a strong interest in the issues raised in NABER's Petition.

II. STATEMENT IN OPPOSITION

3. NSP believes that the allocation of 800 MHz and 900 MHz channels into the four service categories --

Business, I/LT, SMR, and Public Safety -- has adequately served the basic policy of ensuring that adequate channels are available to accommodate the needs of each category of eligibles. The changes proposed by A & B have the potential to erode significantly the long-standing balance in frequencies allocated among the categories. NSP therefore opposes A & B's Petition. In particular, NSP opposes A & B's proposal that any SMR licensee which has been designated as a "system licensee" should be exempt from the 40-mile restriction set forth in Section 90.627(b) of the Commission's rules. The proposal would eviscerate the beneficial role which the 40-mile rule has played in promoting efficient use of this spectrum.

4. A & B suggests, essentially, that a "system licensee" should be exempt from the Commission's loading standards if its licensed station is located in an area that, as of the first renewal date, was not on the 800 MHz waiting list. However, there would be no assurance that the system licensee's channels will be loaded efficiently at the time it seeks to acquire additional channels. Indeed, A & B's Petition makes no mention of the requirement that SMR systems must be "fully loaded" in order to qualify for intercategory channels. Rather, A & B intends that system

licensees would not have to be fully loaded in order to acquire channels through intercategory sharing.

5. NSP finds this proposal unacceptable. The Commission's channel loading rules have been aimed at ensuring efficient use of the channels. The approach suggested by A & B, premised on elimination of the requirement that applicants' systems be fully loaded, would remove this prerequisite for the acquisition of intercategory channels by designated system licensees. As a result, A & B's Petition, if adopted, would provide an incentive for less efficient use of the available frequencies. Licensees would have no reason to limit the provision of interconnected service and will in many cases find themselves accommodating a smaller number of mobile units.

6. The Commission could not ensure the adverse consequences of this proposal would be confined solely to the SMR category channels. Instead, A & B's system licensee proposal undoubtedly would exert unwarranted pressure on the limited number of available I/LT and Business category channels. There would be a dramatic increase in the demand for channels available through the intercategory sharing provisions, but no comparable gain in spectrum efficiency.

Instead, spectrum efficiency would diminish. For this reason, NSP opposes adoption of A & B's proposal to relax the 40-mile restriction for the so-called system licensees.^{2/}

WHEREFORE, THE PREMISES CONSIDERED, Northern States Power Company opposes the Petition for Rule Making filed by A & B Electronics, Inc. and urges the Commission to act in accordance with the views expressed herein.

Respectfully submitted,

NORTHERN STATES POWER COMPANY

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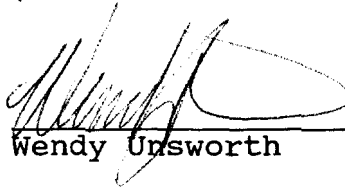
Dated: August 13, 1992

^{2/} On the other hand, NSP does not oppose SMR licensees seeking the relief A & B seeks by rule waiver. It seems that in unique circumstances there may be cause for waiving the 40-mile rule.

CERTIFICATE OF SERVICE

I, Wendy Unsworth, a secretary in the law firm of Keller and Heckman, hereby certify that a copy of the foregoing Statement in Opposition has been sent via first class U.S. mail to the following on this 13th day of August, 1992:

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